

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNIVERSAL BONDING INSURANCE)
COMPANY,)
)
Plaintiff,)
)
v.) No. 3:03-CV-453
) (Varlan/Shirley)
MIDSTATE CONSTRUCTION, LLC, et al.,)
)
Defendants.)

MEMORANDUM AND ORDER

This matter is before the undersigned pursuant to 28 U.S.C. § 636(b), the Rules of this Court, and by Order [Doc. 42] of the Honorable Thomas A. Varlan, United States District Judge, for disposition of Third-Party Defendant Richard LeMay's Motion to Compel Production of Documents. [Doc. 41].

Third-Party Defendant Richard LeMay moves the Court for an Order compelling the Third-Party Plaintiffs Preti Corporation, Inc. d/b/a Quality Inns, Govindial L. Patel, and Vanita G. Patel (collectively "Preti") to make initial disclosures required by Fed. R. Civ. P. 26(a)(1) and to produce any documents ("Preti documents") for Mr. LeMay's inspection and copying which may be used to support Preti's claims or defenses.¹ [Doc. 41]. Mr. LeMay further moves for sanctions pursuant to the Federal Rules of Civil Procedure.

¹Mr. LeMay states in his motion that, pursuant to an agreement between all counsel, including Preti's counsel, Preti was supposed to immediately produce and deliver the Preti documents to Tracy Imaging for Mr. LeMay's inspection and copying at the time of making Rule 26(a)(1) Initial Disclosures. [Doc. 41].

Preti has failed to file a response to the Third-Party Defendant's motion within the time period required by E.D.TN. LR 7.1(a). "Failure to respond to a motion may be deemed a waiver of any opposition to the relief sought." E.D.TN. LR 7.2. Accordingly, for good cause shown, Third-Party Defendant's Motion to Compel Production of Documents [Doc. 41] is **GRANTED**. Third-Party Plaintiffs Preti Corporation, Inc. d/b/a Quality Inns, Govindial L. Patel, and Vanita G. Patel are **DIRECTED** (1) to make their Fed. R. Civ. P. 26(a)(1) initial disclosures and (2) to produce any documents for Mr. LeMay's inspection and copying which may be used to support their claims or defenses within twenty (20) days of the entry of this Order.

Third-Party Defendant's request for sanctions is **DENIED** at this time. However, the Third-Party Plaintiffs are hereby put on notice that failure to cooperate in discovery and to follow the Orders of this Court may result in monetary sanctions and possibly the dismissal of their third-party claim. See Fed. R. Civ. P. 37(b)(2)(C).

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge